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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,297	08/30/2006	Gay Joyce Cornelius	102792-608-10458P1 US	8924
27380	7590	09/30/2008		
NORRIS, MCLAUGHLIN & MARCUS			EXAMINER	
875 THIRD AVE			NGUYEN, TUAN N	
18TH FLOOR				
NEW YORK, NY 10022			ART UNIT	PAPER NUMBER
			3751	
			MAIL DATE	DELIVERY MODE
			09/30/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/597,297

**Applicant(s)**

CORNELIUS ET AL.

**Examiner**

Tuan N. Nguyen

**Art Unit**

3751

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 6/24/08 have been fully considered but they are not persuasive. With respect to the applicant's argument against the 35 USC § 112, the examiner acknowledges and agrees with the applicant's remark thereof and hereby incorporated into the obviousness rejection.

With respect to the applicant's argument against the Dreifuss reference on lines 17-23 of page 8 of the arguments filed 6/24/08, the argument thereof has no bearing on the claimed limitation since the claims failed to claim a continuous siphon. Furthermore, members 24 and 22 are considered as the syphonic-action elongated liquid delivery means which is functionally met the claimed language.

With respect to the applicant's argument against the Klamstein, Ewing et al., and MoodyCliffe et al. references, the argument thereof has no bearing on the use of the references as recited in the previous office action. The Klamstein reference was utilized for the teaching of the means for securing the device adjacent a rim of the vessel as claimed. The Ewing et al. reference was utilized for the teaching of flexible reservoir and tube. Finally, MoodyCliffe et al. was utilized for the teaching of disinfectant liquid containing a humectant which is obvious to one skill in the art as asserted on page 6 of the arguments filed 6/24/08.

***Claim Objections***

2. Claim 22 is objected to because of the following informalities: "capital every" in line 1 should be --capillary--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-16, 18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dreifuss (954,426) in view Klammeiteiner (5,457,822) and Ewing et al. (2,760,209) as set forth in the previous office action.

The Dreifuss fluid is delivered by syphonic-action between the proximal end to the distal end of the liquid delivery means since the fluid is being delivered from a higher elevation to a lower elevation as shown in Fig. 3 of Dreifuss. With respect to claims 20-22, the capillary feed means has one hole strand of linear capillary pathway (above member 21) and has an identical cross-sectional shape along its length within member (20). The capillary feed means is considered as a consolidated fiber form.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dreifuss in view Klammeiteiner (as discussed above) and in further view of MoodyCliffe et al. (2004/0049839) as set forth in the previous office action.

The limitation of claim 17 is obviously to one skill in the art as asserted in the applicant's remark section of the arguments filed 6/24/08.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan Nguyen/  
Primary Examiner, Art Unit 3751

TN